

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

ANGEL OLVIDIO ESCOBAR-SABALLOS,

Defendant.

Case No. 2:11-cr-089-JAD-CWH-2

**ORDER GRANTING WITHDRAWAL  
OF COUNSEL AND DENYING  
SENTENCE REDUCTION**

(Dkt. #204)

On May 6, 2015, I appointed Nisha Brooks-Whittington as counsel for defendant Angel Olvidio Escobar-Saballos to assist him in applying for a reduction of his sentence under 18 U.S.C. § 3582(c)(2). (Dkt. #199.) On April 10, 2012, the Honorable Judge Philip M. Pro sentenced Mr. Escobar-Saballos to 120 months of incarceration. Subsequently, the United States Sentencing Commission adopted a two-level reduction in the Sentencing Guidelines' drug offense levels. Mr. Escobar-Saballos seeks a reduction of his sentence consistent with that Guideline reduction. Ms. Brooks-Whittington has filed a motion to withdraw as counsel because she will not file a motion or application for a sentence reduction on behalf of Mr. Escobar-Saballos.

Mr. Escobar-Saballos's 120-month sentence was the result of a downward variance from the Guidelines. With a two-level reduction to his offense level (from 34 to 32), the Guideline range becomes 135 - 168 months' imprisonment. Because his 120-month sentence is below the low end of the amended range, Mr. Escobar-Saballos is not eligible for a reduction. *See* U.S.S.G. 1B1.10(b)(2)(A) ("the court shall not reduce the defendant's term of imprisonment under 18 U.S.C. 3582(c)(2) . . . to a term that is less than the minimum of the amended guideline range"). *See also United States v. Tercero*, 734 F.3d 979 (9th Cir. 2013) (holding that "U.S.S.G. §

1 1B1.10(b)(2)(A) prohibits reductions below the low end of the adjusted Guidelines range”).  
2 *United States v. Davis*, 739 F.3d 1222, 1223-1224 (9th Cir. 2014) (same).

3 IT IS THEREFORE ORDERED that Mr. Escobar-Saballos does not qualify for a  
4 reduction of his sentence.

5 IT IS FURTHER ORDERED that the motion to withdraw as counsel filed by Nisha  
6 Brooks-Whittington (**Dkt. #204**) is supported by good cause and is hereby **GRANTED**.

7 DATED this 9<sup>th</sup> day of September, 2015.

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10 JENNIFER A. DORSEY  
11 UNITED STATES DISTRICT JUDGE  
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